

1  
2  
3  
4  
5  
6  
7  
8           **UNITED STATES DISTRICT COURT**  
9            EASTERN DISTRICT OF CALIFORNIA

10           WILLIAM N. MOSELEY, JR., et al.,

11                 Plaintiffs,

12                 v.

13           TRUTH FOR HEALTH FOUNDATION, et  
14                 al.,

15                 Defendants.

16           Case No. 1:22-cv-01258-ADA-SAB

17           ORDER REQUIRING PLAINTIFFS TO  
18           FILE STATUS REPORT ON SERVICE

19           FIVE DAY DEADLINE

20           Plaintiffs initiated this action on October 3, 2022. (ECF No. 1.) On the same date,  
21           summonses were issued to Defendants. (ECF No. 2.) On December 20, 2022, the Court ordered  
22           Plaintiffs to file a notice of the status of service on Defendants. (ECF No. 5.) On December 28,  
23           2022, the Court ordered Plaintiffs to show cause in writing why sanctions should not issue for  
24           the failure to file proofs of service in this action and diligently prosecute this action in  
25           preparation of the scheduling conference, and for the failure to file the required status report, in  
26           compliance with the Court's December 20, 2022 order. (ECF No. 6.) On January 3, 2023,  
27           Plaintiffs filed a response to the Court's order to show cause and status report as to service in this  
action. (ECF No. 8.) On January 4, 2023, the Court discharged the order to show cause,  
continued the scheduling conference in this matter until March 23, 2023, and extended the  
deadline to complete service until Friday, February 3, 2023. (ECF No. 9.)

28           Allowing for an additional court-day to file the proofs of service, the extended deadline

1 to complete service has now expired and no proofs of service have been filed on the docket in  
2 this action. See Fed. R. Civ. P. 4(m) (“If a defendant is not served within 90 days after the  
3 complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss  
4 the action without prejudice against that defendant or order that service be made within a  
5 specified time.”). As the Court already emphasized to Plaintiffs, the order setting the scheduling  
6 conference in this matter provides that: “plaintiff shall diligently pursue service of the summons  
7 and complaint and dismiss those defendants against whom the plaintiff will not pursue claims . .  
8 .[and] plaintiff shall promptly file proofs of service of the summons and complaint so the Court  
9 has a record of service.” (ECF No. 3 at 1.) The Court shall require Plaintiffs to file a status  
10 report.

11 Accordingly, IT IS HEREBY ORDERED that within five days of entry of this order,  
12 Plaintiffs shall file a notice of the status of service on the Defendants in this action. Plaintiffs are  
13 advised that failure to comply with this order will result in the issuance of a further order to show  
14 cause why sanctions should not be imposed, as well as a potential recommendation this action be  
15 dismissed pursuant to Federal Rule of Civil Procedure 4(m) for failure to serve and for lack of  
16 prosecution.

17  
18 IT IS SO ORDERED.  
19

Dated: February 7, 2023



---

UNITED STATES MAGISTRATE JUDGE

20  
21  
22  
23  
24  
25  
26  
27  
28